

FILED**SEP 11 2015**

**AN ORDINANCE AMENDING TITLE 17,
THE SUBDIVISION CONTROL ORDINANCE
OF THE EVANSVILLE MUNICIPAL CODE**

Anna Windner
CITY CLERK

WHEREAS, pursuant to I.C. § 36-7-4-201, a unit may regulate local land use and planning; and

WHEREAS, pursuant to I.C. § 36-7-4-701 et seq., a unit must regulate standards and procedures for subdivision control, which is the basis for the various standards for the design of subdivisions and the public ways and utilities contained in them as set forth in the subdivision control ordinance at Title 17 of the Municipal Code of the City of Evansville, Indiana; and

WHEREAS, pursuant to I.C. § 36-7-4-702 establishes procedures and requirements for primary approval of subdivision plats, and delegates to the unit the responsibility to specify in the subdivision control ordinance standards for determining whether a plat qualifies for primary approval, which requires inclusion of various improvements such as public areas, public ways such as roads and sidewalks, and extension of municipal services; and

WHEREAS, pursuant to I.C. § 36-7-4-701(e) establishes the procedure for developing a plat committee to which the Area Plan Commission may delegate authority to review and approve certain matters as set forth in various statutes and ordinances; and

WHEREAS, the Evansville Municipal Code provides for the use of what it refers to variously as a “Subdivision Review Committee” or a “Technical Review Committee,” both of which refer to the same committee, namely that committee referred to in the Indiana Code as the “plat committee”; and

WHEREAS, among the matters for which the committee may be delegated authority are the primary approval of “minor subdivisions,” i.e., certain plats for the subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the subdivision control ordinance and the zoning ordinance, pursuant to I.C. § 36-7-4-701(d) and EMC 17.05.050; and

WHEREAS, pursuant to I.C. § 36-7-4-702(c), subdivision development standards may be waived not only by the Area Plan Commission but also by the committee by delegation; and

WHEREAS, recent amendments to the Subdivision Control Ordinance by Ordinance G-2014-31 included changes in the procedure for waiving or modifying certain sidewalk requirements as contained in EMC § 17.05.150(B)(2); however, the ordinance still requires approval of sidewalk waivers and modifications by the Area Plan Commission itself, and in some cases the Board of Public Works, even in the case of plats that are handled as minor subdivisions otherwise approved by the committee under the abbreviated and expedited procedure authorized by statute and ordinance, which thus deprives developers seeking sidewalk waivers of the benefits of such abbreviated and expedited procedure and creates delay that is in most cases unnecessary; and

WHEREAS, certain language currently contained in the subdivision control ordinance requires technical revisions to more effectively reflect and serve the purposes of the ordinance; and

WHEREAS, the Common Council of the City of Evansville, Indiana desires to provide flexibility in the mechanisms for subdividers to obtain approval of waivers or modifications to the sidewalk requirements for minor subdivisions in the same abbreviated and expedited manner as the plat itself is approved, and in doing so to avoid unnecessary delay, while still providing a mechanism for review by the Area Plan Commission itself in cases where the committee declines to approve requested waivers or modifications, or approves the same but with conditions unacceptable to the developer, and while still providing mechanisms for ensuring compliance with necessary design standards and otherwise serving the purposes of the subdivision control ordinance and the other provisions of the Evansville Metropolitan Code;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Evansville, Indiana, as follows:

Section 1. Amendment of Section 17.05.010—“DEFINITIONS”.

The Evansville Municipal Code is hereby amended at Section 17.05.010, entitled “Definitions,” by completely replacing the existing definition of “Subdivision Review Committee” with the following:

“Subdivision Review Committee” means a Technical Review Committee established by the Area Plan Commission which may be appointed by the Area Plan Commission to assist with the technical evaluation of subdivisions, to make recommendations to the Area Plan Commission, and, where authorized under this Title, to grant primary approval, with or without amendments or conditions, to minor subdivision applications and requests for waiver or modification of sidewalk requirements. It is sometimes referred to in this Title as the “Technical Review Committee” and is the same as the “plat committee” authorized under IC 36-7-4-701(e).

Section 2. Amendment of Section 17.05.150—“REQUIRED IMPROVEMENTS”.

The Evansville Municipal Code is hereby amended at Section 17.05.150, entitled “Required improvements,” by completely replacing all existing language in subsection (B)(2) with the following:

(2) Sidewalks.

(a) The subdivider must provide sidewalks for all streets within and bounding the subdivision, except where this requirement is specifically waived or modified by the Area Plan Commission or the Subdivision Review Committee in the case of minor subdivisions, and, where required herein, the Board of Public Works, subject to the following:

(i) This requirement must only be waived or modified in a manner consistent with the purposes of this Title, and any such action must be accompanied by approval of a plan showing proposed sidewalks and any alternative walkways instead of, or in combination with, sidewalks.

(ii) Major subdivisions in which all lots are a minimum of one (1) acre are eligible for waiver or modification of this requirement by the Area Plan Commission.

(iii) For major subdivisions in which one (1) or more building lot is less than one (1) acre, this requirement shall only be modified pursuant to a plan that includes sidewalks and/or alternative walkways and that is approved by both the Area Plan Commission and the Board of Public Works.

(iv) For minor subdivisions, the request for waiver or modification must be submitted to the Subdivision Review Committee with the Subdivision Application as provided under EMC 17.05.050, and the Area Plan Commission may delegate authority to the committee to approve the request, with or without amendments, by affirmative vote of a majority of the committee’s membership. In the event the Subdivision Review Committee approves the waiver or modification, the approval is final and, regardless of the lot sizes in the subdivision, the request need not proceed to the Board of Public Works. In the event the Subdivision Review Committee does not approve the request or approves it with conditions unacceptable to the applicant, the applicant may submit the request to the Area Plan Commission and the Board of Public Works pursuant to the procedure in subsection (B)(2)(a)(ii) or (iii) otherwise pertaining to major subdivisions.

(b) Sidewalks and alternative walkways must conform to the standards adopted by the Board of Public Works or its successor and to all applicable standards required by the Americans with Disabilities Act (ADA) and the regulations thereunder.

(i) Sidewalks must conform to the established location and width of existing sidewalks within the same block, but must not be less than four feet in width.


(ii) In commercial and other congested areas, the Area Plan Commission, or the Subdivision Review Committee in the case of a minor subdivision, may require sidewalks of greater width constructed adjacent to the curb.

(iii) The subdivider must provide a plan showing the location of each sidewalk, ADA compliant ramp, and alternative walkway, if any.

Section 3. Effective Date.

This ordinance shall be in full force and effect upon final passage by the Common Council of the City of Evansville.


PASSED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE INDIANA ON THE 12 DAY OF October, 2015, ON SAID DAY SIGNED BY THE PRESIDENT OF THE COMMON COUNCIL AND ATTESTED BY THE CITY CLERK.



PRESIDENT
COMMON COUNCIL OF THE CITY OF EVANSVILLE


ATTEST:

PRESENTED TO ME, THE UNDERSIGNED CITY CLERK OF THE CITY OF EVANSVILLE, INDIANA, TO THE MAYOR OF SAID CITY, THIS 14 DAY OF October, 2015 AT 5 O'CLOCK PM FOR HIS CONSIDERATION AND ACTION THEREON.



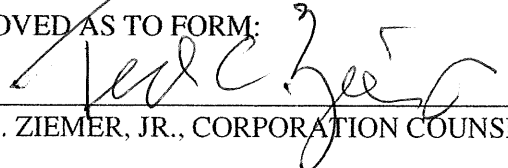
LAURA WINDHORST, CITY CLERK
CITY OF EVANSVILLE, INDIANA

HAVING EXAMINED THE FOREGOING ORDINANCE, I DO NOW, AS MAYOR OF THE CITY OF EVANSVILLE, INDIANA, APPROVE SAID ORDINANCE AND RETURN THE SAME TO THE CITY CLERK THIS 16th DAY OF October, 2015.



LLOYD WINNECKE, MAYOR
CITY OF EVANSVILLE, INDIANA

APPROVED AS TO FORM:



TED C. ZIEMER, JR., CORPORATION COUNSEL